

UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

	)	
Fraserside IP, LLC,	)	
Plaintiff,	)	
v.	)	
	)	
Igor Kovalchuk d/b/a	)	Docket No. 11-3040-MWB
DrTuber.com, <a href="http://www.DrTuber.com">www.DrTuber.com</a> ,	)	
and John Does 1-100	)	
and John Doe Companies 1-100,	)	
Defendants.	)	
	)	

**DEFENDANT IGOR KOVALCHUK’S MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(2), and 12(b)(6), Defendant Igor Kovalchuk respectfully moves for the dismissal of the Plaintiff’s complaint in its entirety. As grounds for this Motion, Mr. Waterweg states that:

1. He has not been served in the present case, despite the Plaintiff’s submission of a purported return of service to the contrary;
2. Even if he had been served, he is incorrectly named as a defendant in this action inasmuch as he neither owns nor operates the website at issue in this case, DrTuber.com;
3. Even if he was a proper defendant, he is a citizen of Russia and not subject to personal jurisdiction in Iowa; and
4. The purported assignment of intellectual property to Plaintiff, Fraserside IP, LLC (“Fraserside IP”) was a sham (inasmuch as the original registrants and owners continue to assert ownership over the intellectual property). Even if the assignment was not a sham, it is *void ab initio* as it was made in contravention of an injunction against the assignors.

Accordingly, the Complaint must be dismissed pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(2), and 12(b)(6).<sup>1</sup> In further support of this Motion, Mr. Kovalchuk relies on the accompanying memorandum of law.

Respectfully submitted,  
Igor Kovalchuk,  
By his attorneys,

/s/Evan Fray-Witzer  
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<sup>1</sup> The Plaintiff's claims arise under the federal Copyright and Trademark laws. If it does not have standing to bring such claims, then there are no claims over which this court would have subject matter jurisdiction. Alternatively, the dismissal could be under Fed. R. Civ. P. 12(b)(6), since the Fraserside IP's lack of standing also means that it has failed to state a claim upon which relief may be granted.

ECF CERTIFICATE OF SERVICE

I, Evan Fray-Witzer, hereby certify that on November 10, 2011, a copy of the above document was served on Chad Bellville, attorney for the plaintiff, through the Court's ECF system in accordance with FRCP 5.

/s/ Evan Fray-Witzer